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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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3 IN RE: )  
4 PHARMACEUTICAL INDUSTRY AVERAGE ) CA No. 01-12257-PBS  
WHOLESALE PRICE LITIGATION ) CA No. 06-11337-PBS  
5 ) Pages 1 - 85  
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## DAUBERT HEARING - DAY TWO

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BEFORE THE HONORABLE PATTI B. SARIS  
UNITED STATES DISTRICT JUDGE

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United States District Court  
1 Courthouse Way, Courtroom 19  
Boston, Massachusetts  
December 11, 2009, 2:05 p.m.

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LEE A. MARZILLI  
OFFICIAL COURT REPORTER  
United States District Court  
1 Courthouse Way, Room 7200  
Boston, MA 02210  
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25        THE COURT: So let's think about this. **One thing that**

1 can't happen is new data coming up at the last minute, new  
2 charts, new data. So you now have everything -- do you have  
3 any new studies or anything that your experts have done? Is  
4 that what I'm hearing they're concerned about?

5        MR. DALY: No, we have no studies. We just had some  
6 demonstratives.

7        THE COURT: All right, so have your experts done new  
8 data analyses that they're going to be testifying --

9        MR. DALY: Your Honor, I will tell you that we have  
10 been working a little bit on this very new stuff that we just  
11 got last week, and we may have some stuff, and what your Honor  
12 is going to say is that when we have it, we should give it to  
13 the other side.

14       THE COURT: Immediately, because I won't allow it in.  
15 And this new chart is a problem because for both sides, you  
16 can't do that. **I won't even allow examination next time.** I  
17 happened to find the gray-red chart very helpful, but this one  
18 you can't go through that fast. You'd have to correlate the  
19 data.

20       MR. DALY: Our experts will be able to do that, Judge.

21       THE COURT: **But no new ones.** Don't do it again, okay?